IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 816 OF 2007

Gautam Devram Jadhav..... ....Petitioner.
V/s
Anjuman-I-Islam A Public Trust & Anr..... ....Respondents.

Mr.Santosh Narawade i/by M/s.M.P.Vashi & Associates, Advs. for the petitioner.

Mr.A.B.Unival i/by Mr.R.M.Vanoo, Adv. For respondent Nos. 1 & 2.

Mr.S.K.Chincholikar, AGP for respondent Nos. 4 & 5.

CORAM: A.P. DESHPANDE, J.
27.6.2007

PC:

The petitioner was working as Hamal/Peon in the employment of the respondent-college. The petitioner was remaining absent without sanction of leave and on account of his frequent absentism without sanction of leave, he was proceeded against in departmental inquiry. In the show cause notice the period for which the petitioner had remained absent without sanction of leave has been mentioned. The petitioner has remained absent without sanction for a period of 231 days in a span of about three years. The petitioner replied the show cause notice and admitted that he remained absent without sanction of leave. The petitioner tried to justify that he remained absent because of health problem. After holding the petitioner guilty of the charge of unauthorized absentism the petitioner came to be punished by an order of dismissal. Aggrieved thereby the petitioner filed an

appeal before the University and College Tribunal. The Tribunal has observed that inspite of repeated warning from the respondent, petitioner continued to remain absent without getting leave sanctioned. The Tribunal has also held that there was, truly speaking, no necessity to hold inquiry as the charge was admitted by the petitioner. Be it as it may, as the Inquiry Officer has held the petitioner guilty, the Disciplinary Authority has proceeded to dismiss the petitioner from service. Learned counsel for the petitioner has submitted that the Inquiry Officer did not recommend any punishment and this omission would vitiate the punishment impose;d on the petitioner. What is relevant to notice is that though the Inquiry Officer did not recommend any punishment the Disciplinary Authority viz. the Principal of the College issued a show cause notice indicating the penalty which it proposes to impose by notice dated 8.9.04. As the Disciplinary Authority had issued notice of proposed punishment and has taken into consideration the submission of the petitioner, the said omission on the part of Inquiry Officer cannot vitiate the punishment imposed. Perused the order passed by the Tribunal. The same does not call for interference. Hence writ petition is summarily dismissed.

27.6.07.